

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRION DODD JOHNSON,

Defendant.

No. 04-CR-12-LRR

**ORDER**

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The matter before the court is Magistrate Judge Jon S. Scoles's Report and Recommendation (docket no. 254). On April 5, 2012, Judge Scoles held a hearing on the Second Supplemented and Substituted Petition for Warrant or Summons for Offender Under Supervision ("Petition") (docket no. 250). On April 9, 2012, Judge Scoles issued the Report and Recommendation, which recommends that the court revoke Defendant Brion Dodd Johnson's supervised release and that he be sentenced to an 11 month term of imprisonment, followed by 10 years of supervised release. The Report and Recommendation states that, "within fourteen (14) days after being served with a copy of this Report and Recommendation, any party may serve and file written objections with the district court." Report and Recommendation at 4.

On April 10, 2012, Defendant notified the court that "he will not contest the Magistrate's Report and Recommendation." Notice (docket no. 255) at 1. On April 12, 2012, the government notified the court that the government also has no objections to the Report and Recommendation. *See* Notice (docket no. 256) at 1. The parties have thus waived their right to de novo review of the Report and Recommendation. *See, e.g., United States v. Newton*, 259 F.3d 964, 966 (8th Cir. 2001) ("Appellant's failure to file any objections waived his right to de novo review by the district court of any portion of the report and recommendation of the magistrate judge as well as his right to appeal from

the findings of fact contained therein.’” (quoting *Griffini v. Mitchell*, 31 F.3d 690, 692 (8th Cir. 1994))). The court finds no plain error in Judge Scoles’s decision. Accordingly, the court hereby **ADOPTS** the Report and Recommendation (docket no. 254) in its entirety. For the reasons set forth therein, the court finds by a preponderance of the evidence that Defendant violated the terms and conditions of his supervised release.

Therefore, it is the judgment of the court that Defendant Brion Dodd Johnson’s supervised release is revoked and he is hereby committed to the custody of the United States Bureau of Prisons for a term of 11 months. Upon release from imprisonment, supervised release shall be reimposed for a period of 10 years. Within 72 hours of release from the custody of the Bureau of Prisons, Defendant shall report, in person, to the probation office in the district to which he is released. During this period of supervised release, Defendant shall not commit another federal, state or local crime; he shall not illegally possess a controlled substance or a firearm, ammunition, destructive device or other dangerous weapon; he shall cooperate in the collection of a DNA sample, as directed by his probation officer; and he shall comply with the standard conditions that have been promulgated by the Judicial Conference of the United States. All other terms and special conditions of Defendant’s original sentence are reimposed and remain in full force and effect. In addition, the following special condition is added:


Defendant must be placed on electronic monitoring, which includes the Global Positioning Satellite System (GPS) and pay the costs associated with this program as determined by the United States Probation Office. While being monitored, Defendant must abide by all the rules and regulations of the monitoring program.

In fashioning a sentence in this matter, the court has taken into consideration all factors in 18 U.S.C. § 3553(a). The United States Probation Office is **DIRECTED** to prepare a judgment in accordance with the Report and Recommendation and this order.

Defendant is advised of his right to appeal. If Defendant desires to appeal, he must file a written notice with the Clerk of Court within 14 days of the filing of the judgment. If Defendant is unable to afford an attorney, the court will appoint an attorney to represent him.

**IT IS SO ORDERED.**

**DATED** this 19th day of April, 2012.



LINDA R. READE  
CHIEF JUDGE, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA